REMARKS

Claims 1-4, 6-16, 18-29, 32-37 and 39-41 are pending with claims 1, 16, 24 and 32 being independent. Claims 1, 16, 18-20, 24, 32-34, 36 and 40 have been amended. Claim 17 has been cancelled. Claims 5, 30-31 and 38 were previously cancelled. In light of the foregoing amendment and following remarks, reconsideration and allowance of all pending claims are respectfully requested.

Telephonic Interview

Examiner Vu is thanked for conducting the telephonic interview on February 24, 2009. Independent claim 1 and cited prior art were discussed. It was agreed that further amendment would be presented to render the claims allowable.

Rejections under 35 U.S.C. §103

Claims 1-4, 6-29, 32-37, 39-41 are rejected under 35 U.S.C. 1 03(a) as allegedly being unpatentable over US Patent Application Publication No. 2002/0077107 to Eng ("Eng") in view of US Patent Application Publication No. 2002/0069263 to Sears ("Sears"), and further in view of US Patent No. 6,622,017 to Hoffman ("Hoffman"). While not agreeing with the rejections, claims have been amended to obviate the rejections as discussed during the above described telephone interview.

Claim 1 and its dependent claims

Amended claim 1 is provided below for convenience.

1. A method for providing services to a mobile device, the method comprising:

receiving a request from the mobile device for choices of available service providers and associated mobile service subscription choices that include at least a choice of mobile calling plan;

in response to receiving the request from the mobile device, sending data to the mobile device relating to identification of the available service providers and the associated mobile service subscription choices, wherein the choices of available service providers and the associated subscription choices are sent to the mobile device over a wireless communication path, the choices of service providers and subscription choices are for selection by a user of the mobile device, and the subscription choices comprise choices to initiate or modify at least a

mobile calling plan associated with at least one of the available service providers to enable wireless communications over a wireless network;

receiving a selection from the mobile device of at least one of the available service providers and at least one of the associated subscription choices that comprise the mobile calling plan from the mobile device over the wireless communication path; and

activating a service corresponding to the at least one selected service provider and at least one associated subscription choice that comprises the mobile calling plan in response to the selection received from the mobile device.

The proposed combination of Eng, Sears and Hoffman fails to teach or suggest each and every limitation of claim 1 for at least the following reasons. Claim 1 requires "receiving a request from the mobile device for choices of available service providers and associated mobile service subscription choices that include at least a choice of mobile calling plan." While the Office contends that Eng teaches or suggests these limitations, the cited portions of Eng fail to support the contention.

In contrast to claim 1, Eng describes a method of allowing a wireless terminal to roam outside of the home network. (*See e.g.,* Eng at ¶ [0005]). "An objective of the present invention is to lower the fees incurred by users of cellular networks while traveling in areas not served by their home networks." (*Id.*) "In this manner, the user can minimize charges while traveling outside his home cellular network." (*Id.* at ¶ [0014].) In addition, Eng provides for an automatic determination of a "least-cost" route for connecting a telephone call for the wireless terminal roaming outside the home network. (*See id.* at ¶ [0012]).

> Advantageously, the system includes a second telecommunication node 1114 configured to automatically select a serving network from one of the switch nodes 1112 in a manner transparent to the user of the wireless terminal....Preferably, telecommunication node 1114 includes a database 1116 containing route information relating to costs and quality of service of different routes connecting, for example, the various switch nodes 1112. Using this information and a known routing algorithm, telecommunication node 1114 can determine an optimal route (e.g., a least-cost route) for transmitting communications between switch nodes 1112 and 1113. The database 1116 may further include authentication data for validating access by a user....

(*Id.*)

In providing this "least-cost route" for the wireless terminal, the subscription information of the wireless terminal and the user profile is obtained form the wireless terminal to determine

the ability and privilege of the user and the user's wireless terminal to access the various telecommunication nodes. (*See id.* at ¶ [0013]).

> Terminal 1110 may include a Subscriber Identification Module (SIM) for storing subscription information including the identity and capability of the wireless terminal (e.g., capable of communicating in TDMA, CDMA, W-CDMA, and/or CDMA-2000) and the user's profile. The user's profile may include authentication information (e.g., encrypted user password), network parameters (e.g., GSM), and quality of service parameters (e.g., Answer Seizure Ratio and Post Dial Delay). In a particularly preferred embodiment, the SIM also stores data relating to the user's privilege to access one or more of the switch nodes 1112 so that telecommunication node 1114 can eliminate from its list of possible routes those switch nodes the user does not have privilege to access.

(*Id.*)

Thus, the wireless terminal in Eng already has a subscription to a mobile calling plan. And based on this already subscribed mobile calling plan, Eng automatically determines a "least-cost route" for connecting the wireless terminal when roaming outside the home network. Because the wireless terminal in Eng already has a mobile calling plan, the system in Eng does not receive the claimed "request from the mobile device for choices of available service providers and associated mobile service subscription choices that include at least a choice of mobile calling plan."

In contrast to claim 1, the wireless terminal in Eng merely sends a request for a wireless telecommunication connection (e.g., a telephone call) and the subscription information. (*See id.* at ¶ [0014]). This is not the claimed "request from the mobile device for choices of available service providers and associated mobile service subscription choices that include at least a choice of mobile calling plan" because the wireless terminal is merely trying to connect a phone call based on already subscribed mobile calling plan while roaming outside the home network. If the wireless terminal in Eng did not already have a subscription to a mobile calling plan, the wireless terminal in would not have the subscription information required for the telecommunication node to authenticate the wireless terminal and determine the "least-cost route" for connecting the requested telephone call.

The telecommunication node authenticates the wireless terminal based on the subscription information and proceeds to automatically determine "an optimal route from the

wireless terminal to the called party's telephone equipment 1118 using the subscription information and the route information stored in the database 1116." (*Id.*) Eng describes that the optimal route is determined by "[p]referably, telecommunication node 1114 receiv[ing] service offers from the various switch node operators (e.g., cellular network operators) so that the computation of an optimal route includes selecting the switch node that offers the lowest service charge." (*Id.*) These offers to access the switch nodes are for a particular access cost associated with accessing the switch nodes, but Eng does not describe that these offers are part of a choice of mobile calling plans to be selected by the user. Thus, Eng describes a "least-cost route" determination scheme and not the claimed "request from the mobile device for choices of available service providers and associated mobile service subscription choices that include at least a choice of mobile calling plan."

In addition, the offers received from the switch node operators are (1) merely offers to provide access to the operator's nodes for connecting the phone call, which is not a choice of mobile calling plan; and (2) the offers are received by the telecommunication node 1114 and not the wireless terminal.

Also, Eng expressly claims "[a] method of routing telecommunication traffic to and from a wireless terminal through one of a plurality of cellular networks accessible by the wireless terminal." (*See id.* at claim 1). This claimed method of routing telecommunication traffic in Eng is provided so that "the user can minimize charges while traveling outside his home cellular network." (*See id.* at ¶ [0014].)

Further, the wireless terminal in Eng does not receive the claimed "request from the mobile device for choices of available service providers and associated mobile service subscription choices that include at least a choice of mobile calling plan" because the telecommunication node in Eng "automatically" determines the optimal route. There is no opportunity for the user at the wireless terminal to make any choice in Eng. Because the user does not select the optimal route or make any other selections, there is no need in Eng to receive any request from the wireless terminal for a choice of the service provider and subscription choice.

The Office concedes that "Eng does not clearly teach sending data to the mobile device relating to identification of the available service providers and the associated mobile service subscription choices, wherein the choices of available service providers and the associated subscription choices are sent to the mobile device over a wireless communication path, the choices of service providers and subscription choices are for selection by a user of the mobile device." (*See* Office Action Dated November 28, 2008 at page 2). This is not surprising because in Eng, the wireless terminal never requested for a choice of service providers or associated subscription choices. Also, the user at the wireless terminal is not able to make any selection. In fact, the optimal route in Eng is determined "automatically" by the telecommunication node. Because Eng does not allow any user selection, the addition of Sears cannot cure the deficiencies of Eng.

In contrast to claim 1 Sears is directed to wireless Java technology. (*See* Sears at ¶ [0002].) "This application is generally related to an infrastructure that allows for seamless and optimized interactions to occur between users, devices, providers, and applications located in a network environment; and is more particularly related to applications that implement Java or Java-like technology in a wireless network." (*See* id.) Thus, Sears is concerned with using Java technology to provide dynamic and secure delivery of Java applications to user devices. (*See id.* at [0032].)

While Sears describes providing Java applications to user devices, claim 1 requires much more than simply providing different applications. In particular, claim 1 requires "in response to receiving the request from the mobile device, sending data to the mobile device relating to identification of the available service providers and the associated mobile service subscription choices, wherein the choices of available service providers and the associated subscription choices are sent to the mobile device over a wireless communication path, the choices of service providers and subscription choices are for selection by a user of the mobile device, and the subscription choices comprise choices to initiate or modify a subscription associated with at least one of the available service providers to enable wireless communications over a wireless network." Providing different Java applications to user devices in Sears does not include

providing identification of available service providers and associated mobile subscription choices in response to receiving the request form the mobile device as required in claim 1. In fact, nothing in Sears can reasonably be construed as providing mobile subscriptions choices or service providers as required in claim 1.

Also, a choice of the Java applications and service providers in Sears are not sent to user devices for selection by the user. In contrast to claim 1, Sears provides a server that stores the Java applications that can be downloaded by the users and a database of user history. (*See, id.* at ¶¶ [0012]-[0013] and [0038]-[0041].) In fact, nothing in Sears can reasonably be construed as sending to the user device choices of mobile subscription and service providers as required in claim 1.

The Office contends that "it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Eng, with Sears' teaching, in order to provide the user with more options for selecting and/or downloading the different service plans, or advertisements such as sales from different providers for saving cost." However, the contention is illogical and defies common sense reasoning.

As described above, Eng does not teach or suggest receiving the claimed "request from the mobile device for choices of available service providers and associated mobile service subscription choices that include at least a choice of mobile calling plan" because Eng does not allow the user to make any selection. Thus, it defies common sense reasoning to add the Java application downloading of Sears to Eng, which does not allow any user selection. The main idea of Eng is to allow for "automatic" determination of optimal routing of telecommunication traffic. In fact, adding the Java applications in Sears to Eng only adds to the deficiencies of the combination and does not cure the deficiencies of Eng. The proposed combination still lacks at least the claimed "receiving request from the mobile device…" and "sending data to the mobile device relating to identification of the available service providers and the associated mobile service subscription choices…"

To this already deficient combination of Eng and Sears, the Office contends to add the teachings of Hoffman because the Office concedes that "Eng and Sears do not specifically teach

the subscription choices [that] comprise choices to initiate or modify a subscription associated with at least one of the available service providers to enable wireless communications over a wireless network; receiving a selection of at least one of the available service providers and at least one of the associated subscription choices from the mobile device over the wireless communication path; and activating a service corresponding to the at least one selected service provider and at least one associated subscription choice in response to the selection." However, the cited portions of Hoffman fail to cure the deficiencies of Eng and Sears.

In contrast to claim 1, Hoffman describes a process for provisioning a new station from an already selected service provider. Hoffman discloses that "[a]s part of the provisioning of a new digital cellular telephone station 5, it is necessary to download certain data into the new station 5." (*See,* Hoffman at col. 9, ll. 19-20.) The provisioning process is automated in Hoffman as "the carrier operates an over-the-air (OTA) provisioning server." (*See, id.* at col. 9, ll. 19-20.) While Hoffman allows OTA provisioning of cellular telephone station, the system in Hoffman does not disclose the claimed "receiving a request from the mobile device for choices of available service providers and associated mobile service subscription choices" because the cellular telephone station in Hoffman is already configured for a pre-selected service provider. The OTA provisioning in Hoffman merely provides the user with the ability to customize his cellular telephone station by activating specific functions and services provided by that pre-selected service provider.

In addition, in contrast to claim 1, Hoffman discloses that "[w]hen the user first obtains a new station 5, the user operates the cellular telephone to call the customer service center 17 to initiate provisioning." (*See, id.* at col. 10, ll. 5-7.) Thus, Hoffman is limited to selecting a service provider by personally calling a service provider and not by receiving choices of service providers on the mobile device. Further, Hoffman discloses that only "[o]nce the account is set up, the user initiates a data communication with the OTA application server, and the server downloads data such as the mobile identification number to provision service in the handset 5 itself." (*See, id.* at col. 10, ll. 10-14.). Thus, Hoffman makes it clear that provisioning the mobile device in Hoffman is allowed only after the user has called a particular service provider.

In contrast, claim 1 recites *that the* ***choices of service providers and subscription choices are for selection by a user of the mobile device****, and the subscription choices comprise choices to* ***initiate or modify at least a mobile calling plan*** *associated with at least one of the available service providers to enable wireless communications over a wireless network.*

Further, the proposed combination of Eng, Sears and Hoffman fails to teach or suggest the claimed "receiving a selection from the mobile device of at least one of the available service providers and at least one of the associated subscription choices that comprise the mobile calling plan from the mobile device over the wireless communication path; and activating a service corresponding to the at least one selected service provider and at least one associated subscription choice in response to the selection." In fact, the Office fails to address these limitations. If the rejections are maintained in the next office action, Applicant requests that the Office clearly indicate how the proposed combination teaches or suggests the limitations.

Because Eng does not allow user selection, Eng does not describe receiving the claimed user selection of at least one of the available service providers and at least one associated subscription. Likewise, Sears is limited to allowing a user to download Java applications and also does not receive a user selection of the service provider and the associated subscription. Also, because the system in Hoffman is limited to having the user call the service provider to initiate provisioning, Hoffman also fails to disclose or suggest the claimed, "receiving a selection from the mobile device of at least one of the available service providers and at least one of the associated subscription choices that comprise the mobile calling plan from the mobile device over the wireless communication path."

For at least these reasons, claim 1 is allowable over the proposed combination of Eng, Sears and Hoffman. Claims 2-4 and 6-15 depend from claim 1 and are allowable for at least the same reasons.

Claim 16 and its dependence

Claim 16 is allowable over the proposed combination for at least reasons similar to claim 1. Claims 18-23 depend from claim 16 and are allowable for at least the same reasons.

Claim 24 and its dependence

Claim 24 is allowable over the proposed combination for at least reasons similar to claim 1. Also, claim 24 is allowable for additional reasons. In addition to the limitations described with respect to method claims 1 and 16, claim 24 recites a mobile device that comprises specific structural limitations. Instead of addressing the structural limitations of the claimed mobile device, the Office rejected claims 1, 16, 24 and 32 together. However, because claims 1 and 16 are method claims, it is unreasonable to lump together the mobile device of claim 24 with the method claims 1 and 16. Thus, claim 24 is allowable for at least the additional reasons that the Office has failed to address the structural limitations of claim 24.

Claims 25-29 depend from claim 24 and are allowable for at least the same reasons.

Claim 32 and its dependence

Claim 32 is allowable over the proposed combination for at least reasons similar to claim 1. Also, claim 32 is allowable for additional reasons. Similar to claim 24, the Office fails address the structural limitations of the claimed system in claim 32. For at least these additional reasons, claim 32 is allowable over the proposed combination. Claims 33-37 and 39-41 depend from claim 32 and are allowable for at least the same reasons.

CONCLUSION

The foregoing comments made with respect to the positions taken by the Examiner are not to be construed as acquiescence with other positions of the Examiner that have not been explicitly contested. Accordingly, the above arguments for patentability of a claim should not be construed as implying that there are not other valid reasons for patentability of that claim or other claims.

Please apply any excess claim fees and/or Petition for Extension of Time fee to deposit account 06-1050. Please apply any other charges or credits to deposit account 06-1050.

Respectfully submitted,

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